



DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2021-0089]

Agency Information Collection Activities; Renewal Information Collection Request:

National Consumer Complaint Database

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for review and approval and invites public comment. This renewal collection of information is for the National Consumer Complaint Database (NCCDB), which is an online interface allowing consumers, drivers, and others to file complaints against unsafe and unscrupulous companies and/or their employees, including shippers, receivers, and transportation intermediaries, depending on the type of complaint. These complaints cover a wide range of issues, including but not limited to driver harassment, coercion, movement of household goods, financial responsibility instruments for brokers and freight forwarders, Americans with Disability Act (ADA) compliance, Electronic Logging Device (ELD), Entry-Level Driver Training (ELDT), Medical Review Officer (MRO), and Substance Abuse Professional (SAP) complaints. FMCSA requests approval to renew the ICR titled “National Consumer Complaint Database” covered by OMB Control Number 2126-0067 in order to continue to collect consumer complaint information so FMCSA can use this data to take enforcement action, better inform FMCSA policies for safer motor carrier operations, and improve consumer protection.

DATES: Comments on this notice must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: All comments should reference Federal Docket Management System Docket Number FMCSA-2021-0089. Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs (OIRA), OMB. Comments should be addressed to the attention of the Desk Officer, DOT/FMCSA, and sent via email to oir_submission@omb.eop.gov, faxed to (202) 395-6974, or mailed to OIRA, OMB, Docket Library, Room 10102, 725 17th Street, NW, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ms. Donnice Wagoner, DOT, FMCSA, Commercial Enforcement Division/MC-SEI, West Building 6th Floor, 1200 New Jersey Avenue SE, Washington, DC 20590, (202) 366-8045, Donnice.Wagoner@dot.gov.

SUPPLEMENTARY INFORMATION:

Background

FMCSA maintains online information and resources to assist drivers, others in the motor carrier industry, and members of the general public in filing safety complaints regarding household goods (HHG) carriers, hazardous material (HM) carriers, property carriers, cargo tank facilities, passenger carriers, Electronic Logging Devices (ELD), Entry-Level Driver Training (ELDT) providers, Medical Review Officers (MRO) and Substance Abuse Professionals (SAP) reporting to the Agency's Drug and Alcohol Clearinghouse. There is also information pertaining to the filing of consumer complaints, particularly regarding HHG transportation and ADA compliance.¹ This online interface is known as the NCCDB. The NCCDB has contributed to safer motor carrier operations on

¹ DOT maintains reporting and other requirements for over-the-road buses under its ADA regulations. (For a complete listing of the DOT's ADA regulations, see 49 CFR parts 37 and 38.)

our nation's highways by identifying carriers for investigations and improved consumer protection by ensuring moving companies use fair business practices. FMCSA uses the information collected in the NCCDB to monitor and induce non-compliant regulated entities to achieve and maintain compliance.

The NCCDB grew out of a telephone hotline known as the Safety Violation Hotline Service. Congress mandated this hotline in Section 4017 of the "Transportation Equity Act of the 21st Century," Pub. L. 105-178, 112 Stat. 107, June 9, 1998. The Motor Carrier Safety Improvement Act of 1999, Pub. L. 106-159, 113 Stat. 1748, December 9, 1999, created FMCSA and section 213 of the Act expanded the Safety Violation Hotline Service to include a 24-hour operation. On August 10, 2005, Congress enacted the Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users, (SAFETEA-LU), Public Law 109-59, 119 Stat. 1144. Section 4214 of SAFETEA-LU requires DOT to create a system to record and log aggregate complaint information regarding violations of the Federal Motor Carrier Safety Regulations.

The NCCDB fulfills the requirements of these mandates. Complaints are accepted through the NCCDB in connection with other statutory mandates, including, but not limited to, protection of drivers against harassment and coercion under sections 32301(b) and 32911, respectively, of the Moving Ahead for Progress in the 21st Century Act, Public Law 112-141, 126 Stat. 405. The NCCDB also accepts complaints from interested parties regarding third party intermediaries (brokers and freight forwarders) and their associated financial responsibility instruments.

Federal Register Notice and Summary of Public Comments Received

On September 3, 2021, FMCSA published a notice in the *Federal Register* announcing a renewal ICR pertaining to the NCCDB. 86 FR 49594 (September 3 notice). FMCSA sought public comment on the ICR, including (1) whether the proposed collection is necessary for the agency to perform its mission, (2) the accuracy of the

estimated burden, (3) ways for FMCSA to enhance the quality, usefulness, and clarity of the collected information, and (4) ways that the burden could be minimized without reducing the quality of the collected information. Id. at 49595.

On September 7, 2021, a private citizen, MJ Thorne (Thorne), filed a comment in response to the September 3 notice. In the comments, Thorne suggested that the database include “a series for brokers who falsely give delivery dates, then hold carrier/driver hostage for days and refuse to pay layover or adequate layover.... [and] a category for receivers who likewise set appointments, then tell driver they won't get trailer back for days.” Thorne also suggested that the database include “a section for lumper violations.”

FMCSA is in the process of updating the NCCDB. The update will include the option for the system user to select broker allegations specific to property carriers when filing their complaint. FMCSA appreciates the suggestions regarding adding an NCCDB complaint category for receivers and lumpers; however, FMCSA is not currently considering those additions.

On September 17, 2021, a private citizen, Matt Schulz (Schulz) filed a comment in response to the September 3 Notice. In the comments, Schulz raised concerns about FMCSA’s failure to timely respond to his complaint; and FMCSA’s failure to investigate his complaint thoroughly.

FMCSA appreciates the comment; however, the comment does not pertain to this Information Collection Renewal request. FMCSA will strive to respond to every complaint promptly, thoroughly investigate all valid complaints, and initiate enforcement action when applicable.

On October 26, 2021, the Transportation Intermediaries Association (TIA) filed a comment (TIA comment) in response to the September 3 Notice. TIA raised concerns about FMCSA’s lack of enforcement for unlawful brokerage activities. TIA indicated that it “knows of several dozen complaints that have been reported to the Agency through the

NCCDB for unlawful brokerage activities, with no enforcement action taken.” TIA comment, at 3-4. TIA recommended that the “Agency amend the user interface for the NCCDB to make it easier for folks to file complaints with the Agency.” Id. at 4. TIA noted that “there is not a place for licensed property brokers to easily identify areas to make a complaint.” Id. Additionally, TIA stated that it “stands ready to work with the Agency to make the NCCDB a useful tool to identify bad actors whether it be a motor carrier, a broker, or another entity, and use that information to take the necessary enforcement action.” Id.

As previously mentioned, FMCSA is in the process of updating the NCCDB to include its interface. FMCSA is hopeful that the update to the interface will make it easier for system users to file complaints in the NCCDB. The update will also include the option for the system user to select broker allegations specific to property carriers when filing their complaint. FMCSA will strive to respond to every complaint promptly, thoroughly investigate all valid complaints, and initiate enforcement action when applicable.

On November 2, 2021, the Owner-Operator Independent Drivers Association, Inc (OOIDA) filed a comment (OOIDA comments) in response to the September 3 Notice. In its comments, OOIDA acknowledged that the “Information Collection Request is necessary for the agency to perform its mission...” OOIDA comments, at 2. However, OOIDA indicated that “[a]s currently administered, the NCCDB is an inadequate outlet for drivers to report harassment, coercion, and other violations of commercial regulations.” Id. at 1. Moreover, OOIDA raised concerns about the Agency’s response to complaints, insufficient follow-up with drivers after filing complaints, the ambiguity of the name “National Consumer Complaint Database,” and FMCSA’s lack of outreach to drivers informing them about the NCCDB. Id. at 1-2. Finally, OOIDA “encourage[d]

FMCSA to collaborate with GAO so overdue changes to the NCCDB can be made as soon as possible.” Id. at 2.

As previously mentioned, FMCSA is in the process of updating the NCCDB. FMCSA is hopeful that the update will improve the adequacy of the database and allow drivers to report harassment, coercion, and additional violations of commercial regulations. FMCSA is not currently considering changing the National Consumer Complaint Database’s name. The National Consumer Complaint Database, commonly referred to as the NCCDB, is a well-known and highly frequented database that consumers, brokers, motor carriers, and industry personnel use. In 2021, the database received over 18,000 complaints. Therefore, FMCSA does not believe that there is a stakeholder awareness problem due to the name of the database. FMCSA looks forward to continuing to hear OOIDA’s perspective on the name of the database and categories within it and will strive to respond to every complaint promptly, thoroughly investigate all valid complaints, and initiate enforcement action when applicable.

FMCSA looks forward to continuing to work with stakeholders on issues related to the NCCDB.

Title: National Consumer Complaint Database

OMB Control Number: 2126-0067.

Type of Request: Information collection request renewal.

Respondents: Consumers, Drivers, and Other Participants in the Motor Carrier Industry

Estimated Number of Respondents: 18,546

Estimated Time per Response: 15 minutes

Expiration Date: February 28, 2022

Frequency of Response: On occasion

Estimated Total Annual Burden: 4,638 hours [18,546 respondents \times 1 response per respondent \times 15 minutes per response = 4,638]. Note that estimates may not match exactly due to rounding.

PUBLIC COMMENTS INVITED: You are asked to comment on any aspect of this information collection, including: (1) whether the proposed collection is necessary for the performance of FMCSA's functions; (2) the accuracy of the estimated burden; (3) ways

for FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information.

Issued under the authority of 49 CFR 1.87.

Thomas P. Keane,

Associate Administrator.

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